



**STATE OF MONTANA
DEPARTMENT OF CORRECTIONS
POLICY DIRECTIVE**

Policy No. DOC 1.5.5	Subject: OFFENDER RECORDS MANAGEMENT, ACCESS, AND RELEASE
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 5 and Attachments
Section 5: Case Records Management	Effective Date: Dec. 1, 1996
Signature: /s/ Loraine Wodnik, Interim Director	Revised: 06/23/2017

I. POLICY

The Department of Corrections will manage offender public and private records in compliance with all state and federal laws.

II. APPLICABILITY

All divisions, facilities, and programs Department-owned and contracted, as specified in contract.

III. DEFINITIONS

Administrator – The official, regardless of local title (division or facility administrator, bureau chief, warden, superintendent), ultimately responsible for the division, facility or program operation and management.

Age Out – When a youth reaches the age of 18, also known as the age of majority or legal adult, a youth may no longer be under the custody and supervision of the Youth Services Division (YSD); this term may refer to offenders up to the age of 25 in accordance with the provisions provided for in 41-5-208, MCA.

Facility/Program – Refers to any division, prison, secure care correctional facility, correctional or training program, or community-based program under Department jurisdiction or contract. This term includes the facility building or residence, including property and land owned or leased and operated by the Department.

Need to Know – The staff member requesting information must have that information in order to properly and adequately perform his or her job related duties and responsibilities.

Offender Case Files – The primary records for adult and youth offenders that may include, but are not limited to, certified documents that authorize the Department to maintain legal custody and/or supervise the offender, reports, classification, treatment programs, and grievances; utilized to provide basic physical, biographical, or historical information about an offender, and to aid placements, custody, classification, treatment, and supervision.

Public Record for Adult Offenders - Information including, but not limited to: name, date of birth, race, gender, eligibility for parole, execution of warrant or sentence, term expiration, court documents unless expressly sealed by court order, FBI number, fine(s) imposed, jail credit time, supervising facility or program, participation or non-participation in a court-ordered program, court docket number, and offense in accordance with 2-6-101, MCA.

Public Record for Juvenile Offenders – Except as provided in 41-5-215, MCA, youth court records on file with the clerk of court, including reports of preliminary inquiries, petitions, motions, other

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filed pleadings, court findings, verdicts, orders, and decrees are public information until the record is sealed in accordance with *41-5-216, MCA*.

IV. DEPARTMENT DIRECTIVES

A. General Requirements

1. Offender Management Information System (OMIS) and Youth Management System (YMS) are considered an official record of the Department. Where a paper record exists it may also be considered an official record.
2. Employees must take reasonable precautions to verify the accuracy and reliability of data they enter into official record.
3. The division administrator, or designee, will implement and maintain operational procedures in compliance with this policy, when applicable, that meet the following requirements:
 - a. establish an offender case file for each offender at the time of sentencing or at the time the offender is transferred to Department custody or supervision;
 - b. offender records reflect the adult or youth offender number;
 - c. staff will enter data into OMIS and/or YMS and place incoming material in the file within an appropriate amount of time after receipt; and
 - d. active files and offender case files are accounted for regularly and reconciled against the official count in a facility.
4. The Department's Office of Investigations staff will identify confidential files resulting from offender criminal investigations. Access to these files will be limited to employees with a need to know as determined by the Office of Investigations or Legal Services Bureau.
5. The Department will provide copies of offender records consistent with this policy and may collect a fee to offset the cost of materials, staff time, and postage. Offenders will be charged \$0.25 per page for copies of their records. Additional fees may be charged for the administrative assistant time necessary for records requests if the record copying will be extensively time consuming. Any additional fees will be communicated to the requestor prior to processing the request.

B. Adult Records Release Restrictions

1. Information may be released from adult offender records except for information in which the offender or another person has a right to privacy that outweighs the public's right to know as demonstrated in the following circumstances:
 - a. the information threatens the security or safety of a person or institution;
 - b. medical or psychological information;
 - c. the information is made confidential by law;
 - d. investigative information; or
 - e. youth offender records maintained within an adult offender record in compliance with this policy.

2. Offender file material will not be removed from Department property or produced for any authority except in the following circumstances:
 - a. a Department employee in the performance of the employee's official duties;
 - b. with written application and the approval of the Department director, division administrator, or designees;
 - c. with a court order to produce the material or when officially requested by an attorney in conjunction with a civil case;
 - d. content is public information;
 - e. authorized representatives of law enforcement require information for conducting official activity;
 - f. a release form is signed by the offender and maintained authorizing release to his or her attorney or other persons authorized by statute;
 - g. medical records except when provided by *DOC Policy 4.5.38 Offender Health Record Access, Release, and Retention*; or
 - h. when records release is necessary for the Department to defend itself from an offender in a lawsuit against the Department or an employee.

C. Records Access

1. An offender may review non-confidential records in accordance with the following:
 - a. designated staff will evaluate all records provided to an offender prior to viewing to ensure that release of information will not threaten the safety and security of the institution or violate this policy;
 - b. the offender must complete a written request for access and both the offender and supervising staff member must sign and date the request;
 - c. the offender may request permission to grant authorization for review of his or her records to an attorney or other persons authorized by statute;
 - d. an offender consenting to release of information from his or her file will be required to sign the [Authorization for Release of Information](#) form prior to release; and
 - e. prior to approving records requests from secure facility offenders, staff must verify that offender has sufficient funds in his or her account to cover the cost associated with provision of copies, when applicable.
2. Basic public information on all adult offenders supervised by the Department is accessible through an online service called Correctional Offender Network Website (CONWeb). The content and management of CONWeb is guided by *DOC 1.5.5A Correctional Offender Network Website (CONWeb) Standard Operating Procedure*.
3. Media and public inquiries for specific offender information must be submitted in writing; inquiries will be referred to the facility public information officer (PIO) stationed where the offender is housed or to the Department's communications director and responded to according to the following:
 - a. the designated PIO or communications director will explain release restrictions and provide the inquiring party with information authorized for release;
 - b. offenders will be provided the opportunity to execute a release form authorizing staff to release specific information, when applicable;
 - c. the inquiring party will be advised when an offender does not consent to an information release; and

- d. for audit purposes, the facility PIO or communications director will maintain a record of all requests to include: date of request, name of requestor, and disposition.
4. The Department maintains records from non-Department agencies and will release the records in compliance with the applicable regulations of the non-Department agency to bona fide representatives of law enforcement agencies or produce the records in compliance with the order of a court of competent jurisdiction.

D. Youth Offender Records

1. Juvenile records including, but not limited to, medical, psychological, youth assessment materials, predisposition studies, supervision records of probationers, and any report, charge, or allegation that is not adjudicated may only be released to the following:
 - a. the youth court;
 - b. representatives of any agency providing supervision with legal custody of a youth;
 - c. any person, by order of the court;
 - d. any court and its probation and other professional staff or the attorney for a committed party who had been a party to proceedings in the youth court when considering the sentence to be imposed upon the offender;
 - e. the county attorney;
 - f. the youth subject of the report or record, after emancipation or reaching the age of majority;
 - g. a member of a county interdisciplinary child information team formed under *52-2-211, MCA*;
 - h. members of a local interagency staffing group provided for in *52-2-203, MCA*; and
 - i. persons allowed access to records under *45-5-624, MCA*.
2. The YSD administrator, or designee, will seal youth records when a youth becomes 18 years of age unless the following occurs:
 - a. the youth did not complete sex offender treatment ordered by the court in a judgment or disposition, at which time the record will never be sealed; or
 - b. the youth court judgment requires a transfer applicable under *41-5-208, MCA* on or before the youth's 18th birthday and the record will be sealed at the conclusion of jurisdiction.
3. Youth court records of any youth under Department jurisdiction who is subsequently convicted of an offense in district court pursuant to *41-5-206, MCA* will be sealed when the youth becomes 18 years of age.
4. Youth records that will or may become sealed will be transferred according to the following:
 - a. YSD staff will designate youth records with blue color-coded packaging prior to transfer;
 - b. Department divisions that receive the transferred youth records will maintain the records separately and not intermingle the records with any adult record generated or maintained by the Department;
 - c. Department divisions that receive blue coded youth records must return all original records to YSD upon the date the records are to be sealed and all non-original records must be destroyed; and

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- d. youth records from youth court probation that belong to the Office of Court Administrator will be returned by YSD to the Office of Court Administrator.
5. Information not included in sealed records that will remain available includes the following:
 - a. medical records;
 - b. fingerprints;
 - c. DNA records;
 - d. photographs;
 - e. youth traffic records; and
 - f. education records.
6. Records that are sealed may be accessed with a court order; if a record is reopened with a court order, the requestor must destroy the record when the need for the record is concluded.
7. All youth records must be dissociated with YMS when the youth offender ages out of YSD supervision.
8. Youth records may be destroyed with the consent of the youth court judge or county attorney after ten years from the date of sealing pursuant to *41-5-216, MCA*.

V. CLOSING

Questions concerning this policy should be directed to the Department's Legal Services Bureau.

VI. REFERENCES

- A. *2-6-101; 41-5-206; 41-5-208; 41-5-215; 41-5-216; 41-5-220; 41-5-221; 42-3-203; 45-5-624; 46-18-113; 52-2-203; 52-2-211, MCA*
- B. *[Article II, § 9 & 10, Mont. Const.](#);*
- C. *4-4095, 4-4098, 4-4099, ACA Standards for Adult Correctional Institutions, 4th Edition*
- D. *DOC Policy 4.5.38, Offender Health Record Access, Release and Retention*
- E. *DOC 1.5.5A Correctional Offender Network Website (CONWeb) Standard Operating Procedure*

VII. ATTACHMENTS

[Authorization for the Release of Information](#)
[Youth Health Information Request to Release Records](#)